

STATE OF MAINE
SUPREME JUDICIAL COURT
AMENDMENTS TO THE
MAINE BAR RULES

2009 Me. Rules 8

Effective: February 17, 2009

All of the Justices concurring therein, the following amendment to the Maine Bar Rules is hereby adopted to be effective on the date indicated above.

The specific rules amendment is set forth below. To aid in understanding of the amendment, an Advisory Note appears after the amendment. The Advisory Note states the reason for recommending the amendment, but the Advisory Note is not part of the amendment adopted by the Court.

1. Rule 3.9(f) of the Maine Bar Rules is amended to read as follows:

(f) Recommendation or Solicitation of Employment.

(1) A lawyer shall not solicit employment on behalf of the lawyer or any affiliated lawyer through any form of personal contact:

(i) By using any statement, claim, or device that would violate this rule if part of a public communication;

(ii) By using any form of duress or intimidation, unwarranted suggestions or promises of benefits, or engaging in deceptive, vexatious, or harassing conduct; or

(iii) When the circumstances create an appreciable risk of undue influence by the lawyer or ill-considered action by the person being solicited. Without limitation, such circumstances will be deemed to exist as to the person solicited if that person is in the custody of a law enforcement agency or under treatment in a hospital, convalescent facility, or nursing home, or if that person's mental faculties are impaired in any way or for any reason. Notwithstanding the foregoing, such circumstances shall be deemed not to exist when a lawyer is discussing employment with any person who has, without solicitation by the lawyer or anyone acting for the lawyer, sought the lawyer's advice regarding employment of a lawyer.

(2) A lawyer shall not compensate, or give anything of value to, a person or organization to recommend or secure employment by a client, or as a reward for having made a recommendation resulting in employment by a client, except that a lawyer may pay for public communication permitted by these rules and may pay the usual and reasonable fees or dues charged by a lawyer referral service operated, sponsored, or approved by a bar association.

(3) A lawyer shall not knowingly assist or authorize any other person or organization to engage in conduct that would violate this rule if engaged in by the lawyer personally, nor shall a lawyer accept employment when the lawyer knows, or it is obvious, that the person who seeks the lawyer's services does so as a result of conduct prohibited under this rule.

(4) Notwithstanding the other limitations of this rule, a lawyer may participate in, and announce the availability of, an approved courthouse legal assistance program that offers free representation to unrepresented clients.

Advisory Note

There are several court connected legal assistance programs that provide advice to unrepresented individuals at court proceedings. These programs are important to support access to justice for traditionally underrepresented individuals and groups who may not be aware of these assistance programs. This amendment to Rule 3.9(f) is to clarify that attorneys participating in these programs may announce their availability to provide assistance before the start of and during court proceedings.

2. This amendment is effective February 17, 2009.

Dated: February 11, 2009

/s/
LEIGH I. SAUFLEY
Chief Justice

/s/
ROBERT W. CLIFFORD
Associate Justice

/s/

DONALD G. ALEXANDER
Associate Justice

/s/

JON D. LEVY
Associate Justice

/s/

WARREN M. SILVER
Associate Justice

/s/

ANDREW M. MEAD
Associate Justice

/s/

ELLEN A. GORMAN
Associate Justice